

RECEIVED PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

2006 JUN 20 A 10:01 United States District Court		District <u>UNITED STATES Middle District</u> <u>P.O. BOX 711, Montgomery, AL 36130</u>
Name (under which you were convicted): <u>TERRY LEON CARR #142607</u>		Docket or Case No.: <u>CV-3:06CV547-MHT</u>
Place of Confinement: <u>P.O. BOX 5107</u> <u>UNIONSPRINGS AL 36089</u>		Prisoner No.: <u>#142607</u>
Petitioner (include the name under which you were convicted) <u>TERRY LEON CARR</u>		Respondent (authorized person having custody of petitioner) <u>State of Alabama</u> <u>11 Union Street, Montgomery, AL</u> <u>36130</u>
The Attorney General of the State of <u>Alabama</u> <u>et al Respondents</u>		

PETITION

- (a) Name and location of court that entered the judgment of conviction you are challenging: LEE  
County Criminal Court, 2311 Gateway Drive  
Opelika, AL 36803
- (b) Criminal docket or case number (if you know): # CC-85-745
- (a) Date of the judgment of conviction (if you know): \_\_\_\_\_
- (b) Date of sentencing: 10-31-85
- Length of sentence: NATURAL Life w/o Possibility of Parole violate Const 8th
- In this case, were you convicted on more than one count or of more than one crime? Yes ☒ No ☐
- (Identify all crimes) of which you were convicted and sentenced in this case: INvoluntarily MAN-  
Slaughter Murder, By The Lesser Degree of Instruction  
13A-1-9(a) 13A-6-2, 13A-6-3, 13A-6-4 (a) A Person Commits  
the Crime of CRIMINALLY Negligent Homicide If he Cause the  
death of ANOTHER Person By CRIMINAL Negligence 13A-6-4 (c)
- (a) What was your plea? (Check one) CRIMINALLY Negligence IS 2 Class (A)  
  - Not guilty ☐
  - Guilty ☐
  - Nolo contendere (no contest) ☐ MISDEMEANOR  
Acts 1977, No 607  
P. 812
  - Insanity plea ☐
  - Not Guilty BY REASON  
OF INSANITY BEENING UNABLE  
to PARTICIPATE IN CRIMINAL  
TRIAL, did violate Const, Amendment  
6th, The Right to A fair TRIAL  
SEE 770 So.2d 642 e.g.

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? Im sure I Plead

Not Guilty to, Involuntary manslaughter murder  
for Premise: 13A-6-4 (c) defined: e.g

(c) If you went to trial, what kind of trial did you have? (Check one)

BATSON  
Jury ☒

Judge only ☐

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes ☐ No ☒

8. Did you appeal from the judgment of conviction?

Yes ☒ No ☐

9. If you did appeal, answer the following:

(a) Name of court: Court of CRIMINAL APPEAL

(b) Docket or case number (if you know):

(c) Result: whether the Court was Aware (The Batson Jury)?

(d) Date of result (if you know): Approx: 28 U.S.C. 2254

(e) Citation to the case (if you know): CV-

**I.**

(f) Grounds raised: I. When The Trial Court failure to Instruct  
ON All the Elements of Lesser Degree of Criminally  
Negligent Homicide did The Trial Court Error?

Answer: where Federally Protected Rights have been Invaded  
Courts will be Alert to Adjust their Remedies so As to grant  
The Necessary Relief, Regents V. Balke 684, 90 Led 939,

(g) Did you seek further review by a higher state court? Yes ☒ No ☐ 66 S.Ct. 773,

If yes, answer the following:

(1) Name of court: Court of CRIMINAL APPEAL

(2) Docket or case number (if you know): CV-

(3) Result: Pursuant Rule 32.10, 32.13

(4) Date of result (if you know): See approximate 28 U.S.C. 2254 U.S.C.A

(5) Citation to the case (if you know): Presier V. Rod R. Buz, 41 U.S. 487-499) Info:

**II.**

(6) Grounds raised: II. Whether The State Court was In  
Compliance Ex parte Bontwright, 427 So.2d 1257 (ALA,  
1985) Citing EVitt V. Lucey, 469 U.S. 387 (1985)

BEGGING Jurisdiction, FOR valid Evidentiary HEARING  
on Constitution Amendment(six) Issues and  
Retroactive grounds, of Misdemeanor Imprisonment?  
At Involuntary manslaughter (Felony or Misdemeanor)?

(h) Did you file a petition for certiorari in the United States Supreme Court? AL. Yes ☒ No ☐

If yes, answer the following:

(1) Docket or case number (if you know): Court CRIMINAL APPEALS 2-14-90

(2) Result: whether 13A-1-9(2) 13A-6-4 (C) IS [2] CRIMINAL Negligent FELONY?

(3) Date of result (if you know): Pursuant 28 U.S.C. 2254

(4) Citation to the case (if you know): For specific Release 411 U.S. 487, at 449

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?

Yes ☒ No ☐

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: In The Lee County Circuit Court Rule 32.6(b)

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: The Rule 32.6(b)

(5) Grounds raised: Raised Issues of UNCONSTITUTIONAL

Strickland Vs Washington Issues, 466 U.S. 668 (1984)

E.g. The Trial Court Knowing By The Jury

Voited, Constituting (AN All white jury)

Retroactive Denied The Accused His Rights i.e. to

A fair trial, while (2) Violating Batson V. Kentucky

Issues Retroactive) the Defendant Being Negro male

Whether The Batson Impaired Jury Violated Const, 6, 14

to The United States Constitutions?

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☒ No ☐

(7) Result: the Batson Issue REMAINS A.R. Crim. p. Rule 27.1)

(8) Date of result (if you know): for New TRIAL, unknown

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: Court of CRIMINAL APPEALS

(2) Docket or case number (if you know): 28 U.S.C. 1253 DENIED

(3) Date of filing (if you know): ON Newly Discovered Evidence (see)

(4) Nature of the proceeding: 361 So.2d 1106-1107

(5) Grounds raised: III. WHETHER The TRIAL Judge Errored

By failure to give All the Requested Instruction

ON All the Elements of Homicide murder (1) Constituting

Lesser Degree for 13A-1-9, Code 1975, 13A-6-4, 13A-6-2

WHETHER Involuntarily murder is Defined By Black's Law

AS [sic] Elevated FELONY, U.S.C.A. 14, 6, 13 Amendments

U.S.C.A.?

III.

## III.

(2) where The Trial Court must Have Errored to Reversal, 361 So.2d 1106-1107  
In Failure to give the Requested Instruction, Did Violate the Petitioner Secured Constitutional Rights

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☒ No ☐ Hopefully, BY 28 U.S.C. 2254

(7) Result: writ ad Testicium

(8) Date of result (if you know): approx: 2006

(c) If you filed any third petition, application, or motion, give the same information: (middle district U.S. Court)

(1) Name of court: Pendent Court Jurisdiction 28 U.S.C. 1343(2)

(2) Docket or case number (if you know): CV -

(3) Date of filing (if you know): approx: June / 2006

(4) Nature of the proceeding: IV. WHETHER HABEAS CORPUS IS

(5) Grounds raised: Available to Effect discharge from Any Confinement Contrary to The Constitutions or Violation of Fundamental Law, where The Lee County Court Used A Batson vs. Kentucky Jury i.e. to Obtain [A] Defective Conviction

where Relief Sought: Ex parte Watkins, 3 Pet 193, 1, L. Ed 650 (1830), Ex parte Lange, 18 Wall 163, 21, L. ed 872 (1874) Fay v. Noia 9 L. Ed 2d 837 At 409 n 17, whether conviction is Unconstitutional?

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? <sup>1.</sup>

Yes ☐ No ☐ \*

[N] See Ostrander v.

\* Green 46 f.3d 347 (1995)

(7) Result: Sap

(8) Date of result (if you know): when court Records found from Batson Jury.

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes ☒ No ☐ Direct appeal

(2) Second petition: Yes ☒ No ☐ Rule 32 Dismissed

(3) Third petition: Yes ☒ No ☐ Cert. 8.ct. Denied

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not: Pursuant 15-19-1 <sup>2.</sup>

## IV.

The Petitioner was Convicted [By] All White Jury when The Petitioner is Blackman, Preserved Issues<sup>2.</sup> of Batson v. Kentucky supra, where The Supreme Court of Washington D.C. (Has Label Any Batson v. Kentucky) Voited, as Unconstitutional Jury (2) AND game did contribute, to Unconstitutional Life Sentence Impose i.e. to Cover the Batson, Violation [I] 28 U.S.C. 2254 \*\*\*"

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

<sup>3.</sup> **I.**  
GROUND ONE: Involuntary manslaughter murder  
IS NOT EVEN A FELONY 13A-1-9(a) 13A-6-4(c) <sup>3.</sup>

<sup>4.</sup> **II.**  
(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Acts 1988, 1st. Session, NO. 88-916 P. 510  
See Chambers v. State 361 So. 2d  
**II.** Did The Trial Judge Error In failure to  
instruct on ALL the Elements Constituting murder?  
13A-1-9(a) 13A-6-2, 13A-6-3, 13A-6-4(c) Code 1975 <sup>4.</sup>

**III.**  
(b) If you did not exhaust your state remedies on Ground One, explain why: 13A-6-4(c) <sup>5.</sup>  
IS NOT A FELONY FOR PURPOSE OF BATESON V. Kentucky. <sup>5.</sup>  
Supra Empanelled Jury Voiled U.S.C.A 28 U.S.C 2254  
To: Obtained U.S. Release (See 411 U.S. At 487) At 449

(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

The majority of Jury Voir - Voied Records was Lost <sup>6.</sup>

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☒ No ☐ <sup>6.</sup>

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Pursuant A.R.Crim P. (APPEAL 32.10)

Name and location of the court where the motion or petition was filed: United States Federal

District Court P.O. BOX 711, Montgomery, AL. 36130

Docket or case number (if you know): CV-

Date of the court's decision: 8.



Result (attach a copy of the court's opinion or order, if available): 8.

(3) Did you receive a hearing on your motion or petition? Pursuant 46 f. 3d 347 E.g.

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Court of Appeal  
345 Dexter Ave  
Montgomery, AL. 36130

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

Cert. (Denied)  
9.

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

Records was lost from Batson v. Kentucky Trial  
"State vs. Terry L. Carr #142607"

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: 13A-6-4 (C) IS NOT

felony for appeals purpose 28 USC 2244-54, et seq  
28 USC 2671, seq. [1]  
9.

II.  
GROUND TWO: CHADERS v. State 361 So 2d 1106-1107 Contents  
the Trial Judge did ERROR to Reversal in Denying Instruction  
10. 13A-1-9(2)?

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

was The Batson vs Kentucky, (All white jury proper)  
When the Petitioner, In The Lee County  
Convicting Court was (Black Negro)  
11.

At, State vs. Terry Carr E.g  
12. 12.

(b) If you did not exhaust your state remedies on Ground Two, explain why: Records from  
TRIAL Court Lost, Violated Bounts vs. Smith supra  
13. U.S.C.A 28 USC 2254  
13.

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue? 13.

Yes ☒ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: Batson V. Kentucky?  
13.

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? 14.

Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Certi. to the Supreme Court Alabama Denied  
14.

Name and location of the court where the motion or petition was filed:

345 DEXTER, AVE. Montgomery, AL. 36103  
15.

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available): The Lee County Trial  
Court Has Denied the Petitioner  
15.

Copies of All (the In Court Proceedings) Constitution -

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

By Rule 32. A.R.Crim

15. Conviction, due to the  
Hidden, Batson, July 16.  
Issue USC 6, 14, 13,  
Amendment (2006)

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

Batson vs Ky - Yes

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Court of Appeals  
17.

345 DEXTER, AVE

Docket or case number (if you know):

17.  
Montgomery, AL. 36130

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

18.

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: 28 U.S.C. 2671 et seq <sup>19.</sup>

28 U.S.C. 1343 (a)  
HAGAN V. LEVINE 415 U.S. 528  
(1967) <sup>19.</sup>

**GROUND THREE:** filed motions for Reduction of Sentences <sup>19.</sup>  
13A-6-4 (c) APPEALS Rule 32.10 etc.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): <sup>19.</sup>  
<sup>20.</sup>

Humphrey V. Cady 405 U.S. 504 (31 L.ed 2d 394)  
92 S.Ct. 1048 (1972) That Petitioner was Denied  
His Constitutional Rights At Trial CC-85-745  
As In Johnson V. Zerbst, that his Plea to Indictment  
was Invalid, due to Pre Insanity as In VonMoltke V. Gillies <sup>19.</sup>  
332 U.S. 708

(b) If you did not exhaust your state remedies on Ground Three, explain why: <sup>19.</sup>

From Common Nucleus of Pre operative facts  
415 U.S. 528 (28 U.S.C. 1343(a)) (68 S.Ct 316 <sup>20.</sup>  
1948) <sup>20.</sup>

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction (did you raise this issue? <sup>19.</sup>  
Pendent Court

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: Record Lost  
FROM JURY TRIAL <sup>20.</sup>

(d) **Post-Conviction Proceedings:** 28 U.S.C. 2254 Terry Carr, Prose V. Respondents <sup>21.</sup>

(1) Did you raise this issue through a post-conviction motion or petition (for habeas corpus) in a state trial court? <sup>21.</sup>

Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Writ Ad Testium 28 U.S.C. 2254

Name and location of the court where the motion or petition was filed: Middle District U.S.  
Court, P.O. Box 711, Montgomery, AL 36130

V.



Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): BRUNDS v. Smith?  
21.

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: 21.

GROUND FOUR: 770 So. 2d 195/642 Blankinship vs state eg  
22.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): 22.

V.  
FRLP 8(a)(2)

(b) If you did not exhaust your state remedies on Ground Four, explain why:

Involuntary  
manslaughter Is Not A Felony  
23.

See (Black's Law Dictionary, 2006)

(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

13A-6-2, Code 1975  
B.G.  
23.

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

25. Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

writ Ad Testimony (Hear) Rule 56(c)  
Ref 8(2)(2)  
Middle District United States Court  
CV-  
24.

26.

26

27.

27.

CV-

28.

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

*Batson v. Kentucky E.g.*  
28.

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four:

*whether Habeas Corpus In U.S. Court Is The Proper Remedy for Release from Any Conviction*  
28.

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes ☒ No ☐ *Ex. Trise, E.g. 28.*

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

*13A-6-4(c) Code 1975*  
*361 So.2d 1106, Ex parte Chavers II, E.g.*  
*U.S.C.A.*

(b) Is there <sup>29.</sup>any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

*whether a mental Health Inmate could properly defend him self, by ineffective counsel*  
*466 U.S. 668 E.g.?*  
29.

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes ☒ No ☐ 29.

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

*14. I. d.*  
*30.*

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.\*

*Facts: untill The Lee County Trial  
Court RELOCATE, The Batson Jury  
Trial (Transcript) from  
Jury Voir at Voired*

*The Timeliness of Appeals  
dont Begin to Run  
until [The Batson Jury Trial  
Transcript Is found*

*At )*

*State ) CO-85-745*

*VS*

*Terry CARR )  
Petitioner)*

*B.g*

*403 U.S. 388*

*328 U.S. 640 (1946) [4]*

\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of —
  - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
  - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
  - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
  - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief: for which he  
believe He Is ENTITLED from UNCONSTITUTIONAL  
BATSON JURY TRIAL, with Lost Records of  
or any other relief to which petitioner may be entitled. same.

Prose: /s/ Terry Leon Carr #142607

Signature of Attorney (if any)

P.O. Box 5107  
Union Springs, AL 36089

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this  
Petition for Writ of Habeas Corpus was placed in the prison mailing system on JUNE 19th  
2006 (month, date, year):

Proof of Service

Executed (signed) on JUNE 19th (date). 2006

Prose: /s/ Terry Leon Carr #142607

Signature of Petitioner

P.O. Box 5107  
Union Springs, AL 36089

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing  
this petition.

Does not apply; Etc.

\*\*\*\*\*